

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

MARC E. OLIVER, d/b/a GULF COAST ENVIRONMENTAL AND RECOVERY, And T.M. JEMISON CONSTRUCTION CO. INC. d/b/a JEMISON MARINE, INC., Plaintiffs,	:	
MIDSOUTH BANK, N.A., Plaintiff/Counter-Defendant	:	CA 11-0223-KD-C IN ADMIRALTY <i>In Personam and In Rem</i>
vs.	:	
M/V BARBARY COAST, her engines, tackle, furniture, and appurtenances, etc., <i>In Rem</i> , and RODD CAIRNS, an individual, and ATCHAFALYA MARINE, LLC, <i>In personam</i> , Defendants/Counter-Plaintiffs/ Third-Party Plaintiffs,	:	
vs.	:	
EAGLE RIVER TOWING, L.L.C., p/k/a/or a/k/a EAGLE INLAND TOWING, NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA, LOUISIANA LIMESTONE & LOGISTICS, L.L.C., and CURTIS BUFORD, Third-Party Defendants.	:	

ORDER

After due and proper consideration of all portions of this file deemed relevant to the issues raised, and a *de novo* determination of those portions of the recommendation to which objection is made, the Court finds as follows:

1) That portion of the Report and Recommendation (Doc. 96) of the Magistrate Judge made under 28 U.S.C. § 636(b)(1)(B) and dated August 26, 2011, recommending that Defendant Rodd Cairns' motion to dismiss (Doc. 48) be **DENIED AS MOOT**, is hereby **ADOPTED** as the opinion of this Court.

2) Concerning the Plaintiffs Mark Oliver and T.M. Jemison Construction Co.'s motion to strike/dismiss Midsouth's answer and counterclaim (Doc. 47), the Court notes that embedded in Midsouth's Objection (Doc. 103) to the Report and Recommendation (Doc. 96), is a motion for leave of Court to file its answer out of time.

Accordingly, it is **ORDERED** that any Response to Midsouth's motion for leave of Court to file its answer out of time (Doc. 103) shall be filed on or before **September 14, 2011**.

DONE and ORDERED this the **6th** day of **September 2011**.

/s/ Kristi K. DuBose

KRISTI K. DuBOSE

UNITED STATES DISTRICT JUDGE